



4184-34-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA numbers: 93.581, 93.587, 93.612]

Notice of Final Issuance on the Adoption of Administration for Native Americans (ANA) Program Policies and Procedures

AGENCY: Administration for Native Americans (ANA), ACF, HHS

ACTION: Issuance of Final Policy Directive

SUMMARY: The Administration for Native Americans (ANA) is issuing final interpretive rules, general statements of policy and rules of agency organization, procedure, or practice relating to the following Funding Opportunity Announcements (FOAs): Social and Economic Development Strategies (hereinafter referred to as SEDS), SEDS - Native Asset Building Initiative (hereinafter referred to as NABI), Sustainable Employment and Economic Development Strategies (hereinafter referred to as SEEDS), Native Language Preservation and Maintenance (hereinafter referred to as Language Preservation), Native Language Preservation and Maintenance – Esther Martinez Initiative (hereinafter referred to as Language – EMI), and Environmental Regulatory Enhancement (hereinafter referred to as ERE). This notice also provides information about how ANA will administer these programs.

DATES: The policies noted in the original Notice of Public Comment (NOPC) are effective immediately upon publication.

FOR FURTHER INFORMATION CONTACT: Carmelia Strickland, Director, Division of Program Operations, ANA (877) 922-9262.

SUPPLEMENTARY INFORMATION: Section 814 of the Native Americans Programs Act of 1974 , as amended, requires ANA to provide notice of its proposed interpretive rules, general statements of policy, and rules of agency organization, procedure or practice. The proposed clarifications, modifications, and new text will appear in the six FY 2013 FOAs: SEDS, NABI, SEEDS, Language Preservation, Language – EMI, and ERE. ANA published a NOPC in the *Federal Register* (78 FR 13062) on February 26, 2013, with proposed policy and program clarifications, modifications, and activities for the fiscal year (FY) 2013 FOAs. The public comment period was open for 30 days.

For information on the changes ANA is making, please refer to the NOPC at the following link: <https://www.federalregister.gov/articles/2013/02/26/2013-04383/request-for-public-comment-on-the-proposed-adoption-of-administration-for-native-americans-program>.

ANA received one comment from a Native non-profit organization. ANA considered the comment received and provides responses, clarifications, and modifications in this final directive. The following paragraph summarizes the comment and our response:

A. Comment and Response:

Comment: ANA received one comment in reference to ANA's new administrative policy focused on conflict of interest standards that states that staff employed through an ANA-funded project cannot also serve as a member of the governing body for the applicant organization. Therefore, staff employed through an ANA-funded project cannot also serve as a member of the governing body for the applicant organization. During the award negotiation phase, ANA will ask the prospective recipient to modify project personnel if a proposed staff member is also a member of the applicant organization's governing body. In addition, there should be a separation of duties from staff and the governing bodies within an organization to ensure the integrity of internal controls and to minimize disruptions in the continuity of operations.

The commenter stated that this policy would have a negative impact on the commenter's organization's ability to implement a grant as it currently allows two teachers to serve as members of the school board, as required by their bylaws. If this policy were implemented, the applicant would not have the ability to modify project personnel to align with this policy due to the extreme shortage of certified teachers with requisite language capabilities available to staff an ANA grant. In addition, the commenter stated that the by-laws are written so that teacher members do not have decision-making authority regarding personnel actions, nor to make financial decisions that are of personal benefit, thus insuring internal controls.

Response: ANA offers no change in response to this comment. While ANA is sympathetic to the commenter's concern, it is important that this policy remains as written. Under the standard terms and conditions for discretionary HHS awards (Grants Policy Statement, page II-7 at <https://www.acf.hhs.gov/grants/terms-and-conditions>), grant recipients are required to establish safeguards to prevent employees, consultants, members of governing bodies, and others who may be involved in grant-supported activities, from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others, such as those with whom they have family, business, or other ties.

This has been a long-standing policy of the Administration for Children and Families. All prospective applicants are required to submit the SF-424B Assurances (Non-Construction) agreeing to these terms and conditions at the time of submission. ANA understands this can cause challenges for applicants but it is important that applicants are reminded of the requirement to establish safeguards that prohibit employees from using their position for a purpose that presents a conflict of interest or the appearance of a conflict of interest.

B. Funding Opportunity Announcements: For information on the types of projects funded by ANA, please refer to ANA's website for information on our program

areas and funding opportunity announcements:

<http://www.acf.hhs.gov/programs/ana>.

Pre-publication information on ANA's FOAs is available at the HHS Forecast website at

<http://www.acf.hhs.gov/hhsgrantsforecast/>.

Once published, the 2013 FOAs can be accessed at:

<http://www.acf.hhs.gov/grants/open/foa/office/ana> or

<http://www.acf.hhs.gov/grants/open/foa/>. Synopses and application forms will be available on www.Grants.gov.

Lillian A. Sparks

Commissioner

Administration for Native Americans

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